

STATE OF INDIANA )  
 ) SS:  
COUNTY OF WAYNE )

*Sup. T*  
IN THE WAYNE CIRCUIT COURT

CAUSE NO:

*891001-0704-PL 007*

IN RE: KUMARA JAYASURIYA, )  
also known as, )  
JAY SMITH, )  
individually and doing business as )  
D & J AUTO PARTS, )  
Respondent. )

FILED

AVC NO. 07-008

APR 02 2007

*Shirley A. Houser*  
Clerk, Wayne Superior Court I

**ASSURANCE OF VOLUNTARY COMPLIANCE**

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, and the Respondent, Kumara Jayasuriya, also known as Jay Smith, individually and doing business as D & J Auto Parts, enter into an Assurance of Voluntary Compliance ("Assurance"), pursuant to Indiana Code § 24-5-0.5-7.

Any violation of the terms of this Assurance constitutes *prima facie* evidence of a deceptive act. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.

The parties agree:

1. The Respondent is an individual engaged in the sale of auto parts via the Internet from his principal place of business located in Wayne County at 1234 South 9<sup>th</sup> Street, Richmond, Indiana, 47374.

2. The terms of this Assurance apply to and are binding upon the Respondent, his employees, agents, representatives, successors, and assigns.

3. The Respondent acknowledges the jurisdiction of the Consumer Protection Division of the Office of the Attorney General to investigate matters hereinafter described, pursuant to the authority of Ind. Code § 4-6-9-4 and Ind. Code § 24-5-0.5-1, *et seq.*

4. The Respondent acknowledges he has been advised the Attorney General's role in this matter is to serve as counsel for the State of Indiana and the Office of the Attorney General has not given the Respondent any legal advice regarding this matter. The Respondent expressly acknowledges the Office of the Attorney General has previously advised the Respondent to secure legal counsel prior to entering into this Assurance for any legal advice the Respondent requires.

5. The Respondent, in soliciting and/or contracting with consumers, agrees to refrain from representing, either orally or in writing, the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the Respondent knows or reasonably should know it does not have.

6. The Respondent, in soliciting and/or contracting with consumers, agrees to refrain from representing, either orally or in writing, that such subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not.

7. The Respondent, in soliciting and/or contracting with consumers, agrees to refrain from representing, either orally or in writing, that such subject of a consumer transaction will be supplied to the public in greater quantity than the Respondent intends or reasonably expects.

8. The Respondent, in soliciting and/or contracting with consumers, agrees to refrain from representing, either orally or in writing, that such consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the Respondent knows or should reasonably know the representation is false.

9. The Respondent, in soliciting and/or contracting with consumers, agrees to refrain from representing, either orally or in writing, the Respondent is able to deliver or complete the subject of the consumer transaction within a stated period of time, when the Respondent knows or should reasonably know he could not.

10. The Respondent, in soliciting and/or contracting with consumers, agrees to refrain from representing, either orally or in writing, the consumer will be able to purchase the item as advertised by the Respondent, if the Respondent does not intend to sell it.

11. The Respondent, in soliciting and/or contracting with consumers, agrees to fully comply with the Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.*

12. Upon execution of this Assurance, the Respondent shall pay consumer restitution in the amount of Three Thousand Six Hundred and Forty-Nine Dollars (\$3,649.00) to the Office of the Attorney General, to be distributed among the following consumers in the following amounts:

(a)	Matthew D. Cantrell of Pierce City, Missouri	\$ 609.00;
(b)	James E. Harris of APO, AE	\$ 489.00;
(c)	Ronald R. Rowe of Weston, Missouri	\$ 316.00;
(d)	Colleen Stone of Springfield, Illinois	\$ 350.00;
(e)	Kenneth P. Bombard of Raynham, Massachusetts	\$ 99.00;
(f)	Robert J. Rydwin of Bayonne, New Jersey	\$ 98.00;
(g)	Oscar Y. Harward of Monroe, North Carolina	\$ 525.00;
(h)	Michael D. Toler of Rockport, Indiana	\$ 898.00;

(i)	Chris C. Zimmerman of Naples, Italy	\$ 90.00;
(j)	Frank Michel of Florence, Kentucky	<u>\$ 175.00;</u>
<b>Total:</b>		<b>\$3,649.00</b>

13. Upon execution of this Assurance, the Respondent shall pay costs in the amount of Five Hundred Dollars (\$500.00) to the Office of the Attorney General.

14. The Respondent agrees he shall immediately cease operating as a supplier of goods, whether via the Internet, or in person, until the monetary provisions of this Assurance are fully satisfied. Furthermore, the Respondent shall not resume business as an individual, owner, or principal, in any subsequent business or corporation engaged in business as a supplier of goods, whether via the Internet, or in person, until the monetary provisions of this Assurance are fully satisfied. For purposes of this Assurance, the term "supplier" shall have the meaning found in Ind. Code § 24-5-0.5-2(a)(3) and shall mean a seller, lessor, assignor, or other person who regularly engages in or solicits consumer transactions.

15. The Respondent shall not represent the Office of the Attorney General approves or endorses the Respondent's past or future business practices, or execution of this Assurance constitutes such approval or endorsement.

16. The Respondent shall fully cooperate with the Office of the Attorney General in the resolution of any future written complaints the Consumer Protection Division receives. This shall include, but is not limited to, the Respondent promptly resolving any additional valid consumer complaints brought to the Respondent's attention by the Office of the Attorney General, either prior to, or after the filing of, this Assurance with the Court.


17. The Office of the Attorney General shall file this Assurance with the Circuit Court of Wayne County. The Court's approval of this Assurance shall not act as a bar to any private right of action.

DATED this 19<sup>th</sup> day of March, 2007.


STATE OF INDIANA

STEVE CARTER  
Indiana Attorney General  
Attorney no. 4150-64

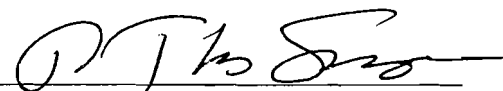
By:

  
Terry Tolliver  
Deputy Attorney General  
Atty. No. 22556-49  
Office of Attorney General  
302 W. Washington, 5th Floor  
Indianapolis, IN 46204  
Telephone: (317) 233-3300

RESPONDENT

  
KUMARA JAYASURIYA,  
also known as  
~~Jay Smith~~,  
individually and doing business as  
D & J AUTO PARTS

APPROVED this 10 day of April, 2007.

  
Judge, Wayne Circuit Court

Distribution:

Terry Tolliver  
Office of Attorney General  
Consumer Protection Division  
302 W. Washington St., 5<sup>th</sup> Floor  
Indianapolis, IN 46204

Kumara Jayasuriya  
4508 South C Street  
Richmond, IN 47374